

## LEGISLATIVE CONSENT MEMORANDUM

### WALES BILL

1. This Legislative Consent Memorandum is laid under Standing Order (“SO”) 29.2. SO29 prescribes that a Legislative Consent Memorandum must be laid, and a Legislative Consent Motion may be tabled, before the National Assembly for Wales if a UK Parliamentary Bill makes provision in relation to Wales for any purpose within, or which modifies the legislative competence of the National Assembly.
2. The Wales Bill (the “Bill”) was introduced in the House of Commons on 7 June 2016. The Bill is now before the House of Lords, and the most recent version of the Bill [HL Bill 63] can be found at: [Bill documents — Wales Bill 2016-17 — UK Parliament](#)

#### **Policy Objective and background to the Bill**

3. The UK Government’s objectives for the Bill are to implement those elements of the St David’s day Command Paper that require legislative changes. The Bill amends the Government of Wales Act 2006 in order to move to a reserved powers model of devolution, and devolves certain further powers recommended by the Silk Commission.
4. The background to the Bill and a summary of its main provisions are set out in the Welsh Government’s preliminary memorandum on the Wales Bill, which was laid before the Assembly on 5 July 2016.
5. The preliminary memorandum set out the Welsh Government’s position on the provisions of the Bill as they stood then. The Bill was then at Committee stage in the House of Commons, and the preliminary memorandum set out a number of areas where the Welsh Government would be seeking amendments to the Bill.
6. Since then, I have proposed a number of amendments to the Bill, in correspondence with the Secretary of State for Wales. I have published my proposed amendments which have been tabled by Members of Parliament and Peers. This has enabled Members of Parliament and Peers to be well informed about the Welsh Government’s concerns, and to scrutinise the UK Government’s stance on those issues in Parliament. The Presiding Officer has similarly published her own proposals for amendment. The Constitutional and Legislative Affairs Committee carried out thorough scrutiny of the Bill and published its report on 6 October.

#### **Welsh Government position**

7. Since the preliminary memorandum was laid, the Welsh Government has continued to discuss the provisions with the UK Government and has proposed a number of amendments to the Bill. The UK Government has agreed some of our proposed amendments and has agreed to consider

tabling further amendments at Lords Report stage. A list of relevant amendments tabled by the UK Government during Lords Committee stage is at Annex A.

8. I cannot yet confirm whether the Welsh Government will support giving legislative consent to the Wales Bill. I have said from the outset that the Bill must be considered alongside a new fiscal framework for Wales - discussions on that framework are underway. I wish to see the UK Government's proposals for Report stage, and the terms of the fiscal framework, before I confirm the Welsh Government's intent on legislative consent.
9. I am laying this memorandum under Standing Order 29 at this stage to allow the Assembly and its committees to scrutinise the Bill as it currently stands. I will lay a supplementary memorandum, confirming the Welsh Government's position, when there is clarity on the fiscal framework and any further amendments to the Bill following Report stage.
10. While this memorandum deals with those provisions in the Bill which modify the Assembly's legislative competence, the Bill also encompasses provisions about functions of the Welsh Ministers, the Assembly and the Assembly Commission, and about the permanence of the Assembly and the legislative consent convention; together with proposals for Transfers of Functions Orders. The written statement laid today under Standing Order 30 outlines those provisions in the Bill which modify the devolution settlement by making changes to the functions of Welsh Ministers, the Assembly and Assembly Commission.
11. Assembly Members will wish to consider the proposals in the round in coming to a view on whether to give their legislative consent to the provisions in the Bill which modify the Assembly's legislative competence.

### **Summary of the Bill**

12. The Bill is sponsored by the Wales Office.

13. The Bill comprises 4 Parts and 6 Schedules:

Part 1 makes provision about the constitutional arrangements for Wales.

Key provisions include:

- Statements about the permanence of the National Assembly for Wales (the Assembly), and about the convention on Parliament legislating on devolved matters [clauses 1 and 2]
- re-defining the Assembly's legislative competence on the reserved powers model (which is the basis of devolution to Scotland and Northern Ireland) [clause 3 and Schedules 1 and 2]
- redrawing the devolution boundary in relation to public bodies, which will be defined as either Wales public authorities (on which the Assembly can legislate without consent) or reserved public authorities

(on which the Assembly, generally speaking, can only legislate with UK Ministers' consent) [clause 4 and Schedule 3]

- provisions about elections, including transferring the majority of the Secretary of State's current powers to make provision about Assembly elections to Welsh Ministers [clauses 5 to 8]
- provisions about the process by which the Assembly makes legislation [clauses 9 to 12]
- removal of the requirement for a referendum before implementation of the income tax raising powers provided for in the Wales Act 2014 [clause 17]
- provisions about the executive competence of the Welsh Ministers, including the transfer of certain common law powers from the Secretary of State to the Welsh Ministers [clauses 18 to 22]

Part 2 makes further provision about legislative competence of the Assembly and executive competence of Welsh Ministers. This includes giving Welsh Ministers executive powers in areas such as the licensing of onshore petroleum; road transport related areas such as speed limits, traffic sign regulations, taxi licensing and bus route registration; harbours that are wholly in Wales; energy planning development consent for projects up to 350MW; and some powers in relation to marine licensing and conservation and equal opportunities. In terms of legislative competence, clause 46 modifies section 114 of the Government of Wales Act 2006, providing for an additional circumstance in which the Secretary of State can exercise an intervention power in relation to Assembly Bills.

Part 3 makes miscellaneous provision, for example, about the provision of information to the Office for Budget Responsibility and licensing of coal-mining operations.

Part 4, and Schedules 5 and 6, makes provision for minor and consequential amendments, transitional provisions and savings, and commencement.

UK Government amendment 119AA (see Annex) adds a new Part and Schedule which make provision for the appointment of a Senior President of the Welsh Tribunals, and set out the responsibilities of the role including in respect of practice directions, training and the deployment of tribunal members.

### **Provisions in the Bill for which consent is required**

#### ***Clause 3 and Schedules 1 and 2: Legislative competence, and new Schedules 7A and 7B to the Government of Wales Act 2006 (GoWA)***

14. These are the provisions which redefine the Assembly's legislative competence on the reserved powers model.
15. Clause 3 replaces the current section 108 of GoWA with a new section 108A. This sets out the tests for deciding whether a provision of an

Assembly Bill is outside competence, so that the Assembly cannot legislate on it.

16. Clause 3 also replaces Schedule 7 to GoWA with two new Schedules, which are set out in Schedules 1 and 2 to the Wales Bill: new Schedule 7A, setting out reserved matters, and new Schedule 7B, setting out a number of general restrictions on the Assembly's legislative competence.
17. The Constitutional and Legislative Affairs Committee described the ten tests of legislative competence in the Wales Bill, at paragraphs 99 to 103 of their report. These ten tests are a synthesis of all the tests set out in new section 108A and new Schedules 7A and 7B to GoWA, and illustrate the full range of restrictions on the Assembly's competence to pass primary legislation.

***Clause 3 (new section 108A of GoWA 2006)***

18. Broadly, new section 108A(2) provides that a provision will be outside the Assembly's legislative competence if it:
  - Extends otherwise than only to England and Wales;
  - Applies otherwise than in relation to Wales or confers, imposes, modifies or removes functions exercisable otherwise than in relation to Wales, unless (see new section 108A):
    - it is ancillary to a provision of any Act of the Assembly or Assembly Measure or devolved provision of an Act of Parliament, and
    - insofar as it has an effect otherwise than in relation to Wales, that effect is no greater than necessary to give effect to the provision;
  - Relates to the reserved matters set out in Schedule 7A;
  - Breaches any of the restrictions in Part 1 of Schedule 7B, having regard to the exceptions to those restrictions in Part 2 of Schedule 7B;
  - Is incompatible with rights in the European Convention on Human Rights or with EU law.
19. New section 108A(6) provides that the question of whether a provision relates to a reserved matter (and is therefore outside competence) is determined by reference to the purpose of the provision, having regard (among other things) to its effect in all the circumstances ("purpose and effect" test). Currently, a "purpose and effect" test is provided for in section 108(7) of GoWA 2006, to determine whether a provision relates to any of the conferred devolved subjects in Schedule 7.

***Schedule 1 (new Schedule 7A to GoWA 2006)***

20. This schedule is fundamental to the new reserved powers model, as it sets out all the reserved matters which are outside the Assembly's legislative competence.
21. Broadly, the reservations are set out as follows:

Part 1: General reservations, including matters relating to:

- The constitution and the civil service
- Registration, funding and accounting requirements of political parties
- Single legal jurisdiction of England and Wales
- Tribunals, apart from those which exercise functions, in relation to Wales only, that do not relate to reserved matters
- Foreign affairs, including international relations and regulation of international trade
- Defence.

Part 2: Specific reservations, set out in sections under the following heads:

- Head A - Financial and Economic matters
- Head B – Home Affairs
- Head C – Trade and Industry
- Head D – Energy
- Head E – Transport
- Head F – Social Security, Child Support, Pensions and Compensation
- Head G – Professions
- Head H – Employment
- Head J – Health, Safety and Medicines
- Head K – Culture, Media and Sport
- Head L – Justice
- Head M – Land and Agricultural Assets
- Head N – Miscellaneous.

*Example of the structure of reservations, exceptions and carve outs*

22. The Bill as introduced to the Lords contains 194 specific reservations in total. In some cases, there are exceptions to the reservations, and ‘carve outs’ from the exceptions. ([The Explanatory Notes to the Bill](#) (para 38) refer to “carve-outs”. These are matters which are “carved out” of exceptions, so that they are effectively re-reserved to the UK Parliament and do not fall within the Assembly’s legislative competence.)

23. For example, reservation 132, under Section F3, is “Occupational and personal pensions”. The exception to reservation 132 is:

“Occupational and personal pensions schemes for or in respect of –  
(a) Assembly members, the First Minister, Welsh Ministers appointed under section 48, the Counsel General and Deputy Welsh Ministers, and  
(b) Members of local authorities,  
but pensions regulation in relation to such schemes is not excepted.”

24. So, the occupational and personal pensions schemes of Assembly Members and certain office holders, and of members of local authorities, are not reserved: the Assembly has the competence to legislate on them.
25. But pensions regulation in relation to such schemes is carved out of the exception, and will be reserved to the UK Parliament.

### Part 3: General Provisions: Public Authorities

26. This part makes provision about the extent to which the constitution, accounting and public procurement functions of public authorities, and other functions exercisable specifically in relation to public authorities, are reserved.
27. These functions are not reserved in relation to Wales public authorities (see paragraph 36 below for an explanation of Wales public authorities, as provided for by clause 4 of the Bill).

#### *Particular authorities*

28. The functions are specifically reserved in relation to:
- any body which is reserved by name in the specific reservations set out in Part 2 of the Schedule,
  - any companies relating to the Post Office (as set out in reservation 84)
  - Research Councils within the meaning of the Science and Technology Act 1965, and the Arts and Humanities Research Council,
  - Police and Crime Commissioners, and
  - Commission for Equality and Human Rights.
29. This Part also provides that the Schedule does not reserve the conferral, imposition, removal or modification of a Welsh language function on any person, other than a Court. This competence does have some limitations when considered in conjunction with paragraph 11 of Schedule 7B (detailed at paragraph 31(2)).

### ***Schedule 2 (new Schedule 7B to GoWA 2006)***

30. According to new section 108A (2) (d), a provision is outside the Assembly's competence if it breaches any of the restrictions in Part 1 of Schedule 7B, having regard to any exception to those restrictions, as set out in Part 2 of Schedule 7B.

#### New Schedule 7B, Part 1

31. Broadly, there are two categories of restriction set out in Part 1: (1) restrictions on modifying the law, and (2) restrictions on modifying the functions of, or making other provision about, reserved authorities
- (1) *Restrictions on modifying the law, so that the Assembly does not have competence to modify certain aspects of the law, for example:*

- the law on reserved matters (i.e. generally speaking, legislation which has as its subject, a matter that is a reserved matter), except where the modification is ancillary to provision made which does not relate to reserved matters, and has no greater effect on reserved matters than is necessary to give effect to the purpose of the provision.
- the private law (e.g. law of contract, tort, property) except where the modification has a purpose which does not relate to a reserved matter
- specified aspects of the criminal law: offences in a listed category (such as homicide and sexual offences) and other specified aspects of criminal law such as criminal responsibility and capacity, and the meaning of intention, recklessness, dishonesty and other mental elements of offences.
- specified enactments or parts of enactments, such as the European Communities Act 1972 and the Human Rights Act 1998.
- the provisions of the Government of Wales Act 2006 (as amended by the Wales Bill when enacted) save for those provisions which are specified as being exceptions to the general restriction.

*(2) Restrictions on the Assembly's competence to legislate about the functions or constitution of reserved authorities, or about functions specifically exercisable in relation to reserved authorities.*

In this context, “reserved authorities” means Ministers of the Crown, UK Government departments and any other public authority apart from a Wales public authority.

The restrictions mean that an Act of the Assembly cannot impose or confer functions on a reserved authority, or modify or remove its functions, or modify its constitution, unless the appropriate Minister consents. The appropriate Minister is the Secretary of State, or the Treasury where the authority in question is Her Majesty's Revenue and Customs.

There are some exceptions to the application of these restrictions, and these are listed in paragraphs 9 and 10 (of Schedule 2). For example, the restriction on conferring or imposing a function on a reserved authority does not apply in respect of the Electoral Commission, the Food Standards Agency, and the Water Services Regulation Authority.

Although Ministers of the Crown fall within the concept of “reserved authority”, in relation to removal and modification of functions (paragraph 10 of Schedule 7B) they are treated separately in paragraph 11.

The general position is that the Assembly has competence to remove or modify Minister of the Crown functions without consent unless the functions being removed or modified fall within any of the 5 categories listed in 11(1).

Where none of the 5 categories apply such that consent is not required, the relevant Secretary of State must be consulted.

This part also provides that where the term legislative competence is referenced in any enactment, the requirement to obtain consent is relevant i.e. that those provisions requiring consent are considered to be outside of competence for the purpose of the defined term. The requirement to consult in paragraph 11(2) of Schedule 7B does not mean that a provision is outside competence in this context.

#### New Schedule 7B, Part 2

32. This provides for general exceptions from the restrictions in Part 1.
33. The first exception provides that an Assembly Act can re-state the law (with any modifications that are not prohibited by the general restrictions). So, for example, an Assembly Act can be used to re-state the law, even in a reserved area, without falling foul of Part 1.
34. The second exception ensures that the Assembly is not limited by any of the restrictions in Part 1 in relation to the procedures for its own subordinate legislation.

#### ***Clause 4 and Schedule 3: Wales public authorities***

35. Clause 4 provides for a new section 157A of GoWA, setting out the meaning of Wales public authority. This is important, as the Assembly can legislate about a Wales public authority (as opposed to a reserved authority) without the need for consent of the Secretary of State.
36. There are two ways of determining whether a public authority qualifies as a Wales public authority:
  - a) Its functions are exercisable only in relation to Wales and are wholly or mainly functions that do not relate to reserved matters; or
  - b) It is specified, or of a description specified, in new Schedule 9A.
37. New Schedule 9A is set out in Schedule 3 to the Bill.
38. It is important that an authority specified in new Schedule 9A does not also have to meet the conditions set out at (a) above: it is a Wales public authority if it meets either the conditions at (a) or is specified in new Schedule 9A. The approach that has been taken to Schedule 9A in the Bill is to include all Wales public authorities, even if they meet the



conditions in sub-clause (2) such that they would not strictly need to be in the Schedule. This provides clarity as to which bodies are Wales public authorities, whichever definition they meet.

### ***Clause 6: Timing of Elections***

39. This clause prevents an Assembly general election being held on the same day as a UK general election or European Parliament elections. In so far as this clause includes provisions about setting the day and date of elections, that would refer to electoral arrangements and fall within competence under heading 12 of Schedule 7 to GoWA (Local Government) and specifically the conferred subject of electoral arrangements for local authorities.

### ***Clause 9: Super-majority requirement for certain legislation***

40. This clause sets out a list of protected subject-matters, such as the name of the Assembly and the system by which members of the Assembly are returned. In cases where a Bill contains provisions which relate to a protected subject-matter, it can only be passed by a majority of at least two-thirds of the total number of Assembly seats.

41. The Presiding Officer must state their decision as to whether a Bill contains such a provision after the last amending stage, but before the Bill is finally passed or rejected. There is also a process for referring to the Supreme Court the question of whether any Bill provision relates to a protected subject matter.

42. The imposition of a requirement for such a two-thirds majority amounts to a restriction on the Assembly's competence.

### ***Clause 13: Financial control, accounts and audit***

43. Clause 13(3) inserts a new section (section 130A) into GoWA 2006. Section 130A requires Welsh legislation (an Act of the Assembly) among other things, to make provision for proper accounts to be prepared by members of the Welsh Government and the Assembly and for the Auditor General for Wales to exercise a number of functions. New section 130A(1)(c) and (2) are within the Assembly's legislative competence, because they relate to the subjects "Auditor General for Wales, audit, examination, regulation and inspection of auditable public authorities" in paragraph 14 of Part 1 of Schedule 7 to GoWA.

44. New section 130A (1)(c) sets out a requirement for Welsh legislation to provide for the Auditor General for Wales to exercise, or ensure the exercise by other persons of, specific functions which are listed in new section 130A(2). These are functions relating to the payment of sums out of the Welsh Consolidated Fund, including carrying out examinations into the economy, efficiency and effectiveness with which persons to whom

such sums are paid (e.g. Welsh Ministers, Assembly Commission) have used their resources in carrying out their functions.

***Clause 29: Transfer of executive functions in relation to Welsh harbours***

45. This clause transfers certain Minister of the Crown functions to Welsh Ministers, so far as they are exercisable in relation to harbours that are wholly in Wales, other than harbours that are reserved trust ports.
46. While the Assembly does not have legislative competence in relation to all harbours that are wholly in Wales, it does have competence in relation to some harbours in Wales, e.g., fishery harbours, recreational harbours. Although harbours are specific exceptions to the Assembly's legislative competence, harbours used or required wholly or mainly for the fishing industry, recreation, and certain other purposes, are specified to be within competence (see paragraph 10 (Highways and Transport) of Part 1 of Schedule 7 to GoWA). This clause, therefore, requires the Assembly's consent to the extent it relates to harbours which are within the Assembly's legislative competence.

***Clause 46: Intervention in case of serious adverse impact on sewerage services etc***

47. This clause extends the Secretary of State's intervention power in section 114 of GoWA, so that the Secretary of State can exercise that power where they have reasonable grounds to believe that an Assembly Bill contains provisions which might have a serious adverse impact on sewerage services or sewerage systems in England.
48. That intervention power already applies in instances where, for example, the Secretary of State has reasonable grounds to believe a Bill's provisions might have a serious adverse impact on water resources, water supply or the quality of water in England.
49. This extension of the intervention power is a restriction on the exercise of the Assembly's legislative competence.

***Clause 49: Provision of information to the Office for Budget Responsibility***

50. This clause inserts a new section 66A into GoWA. It gives the Office for Budget Responsibility a right of access to information held by the Welsh Ministers, or any Wales public authority specified in regulations made by the Secretary of State, that it may reasonably require for the purpose of performing its duty to examine and report on the sustainability of the public finances.
51. This relates to the examination of Welsh Ministers and Wales public authorities' finances. As the audit, examination, regulation and inspection of auditable public authorities is a subject about which the Assembly can

legislate (under paragraph 14 of Schedule 7 to GoWA), this provision requires the Assembly's consent.

### **Summary of provisions for which consent is required**

52. Consent is required for the provisions outlined at paragraphs 14-51 and in Annex A either because they modify the Assembly's legislative competence or because they fall within the Assembly's legislative competence.

53. The provisions which modify legislative competence include:

Clause 3 and Schedules 1 and 2: Legislative competence and new Schedules 7A and 7B;  
Clause 4 and Schedule 3: Wales public authorities;  
Clause 9: Super-majority requirement for certain legislation;  
Clause 46: Intervention in case of serious adverse impact on sewerage services etc.

54. The provisions which fall wholly or partly within the Assembly's legislative competence include:

Clause 6: Timing of Elections  
Clause 13: Financial control, accounts and audit  
Clause 29: Transfer of executive functions  
Clause 49: Provision of information to the Office for Budget Responsibility.

### **Whether it is considered appropriate for these provisions for Wales to be made in the Wales Bill**

55. As noted at paragraphs 8 and 9 above, the Welsh Government's position is that we cannot at this stage confirm whether it is appropriate for these provisions to be made in the Wales Bill. We must seek agreement on a fiscal framework and have the opportunity to consider any UK Government amendments brought forward at Report before we can confirm our view. The latter amendments will be the subject of a supplementary memorandum following Report stage.

### **Conclusion**

56. This memorandum sets out the provisions of the Wales Bill which require the consent of the Assembly under Standing Order 29. It is submitted at this stage, in advance of possible amendment at Lords report stage, to give the Assembly and its Committees time for scrutiny before a Legislative Consent Motion is tabled.

57. I await the outcome of discussions on a fiscal framework for Wales, together with confirmation of any further amendments the UK Government makes to the Bill. At that time the Welsh Government will be able to come to a view on whether we should support giving consent to this Bill.

**Rt Hon Carwyn Jones AM**  
**First Minister**  
**November 2016**

**LEGISLATIVE CONSENT MEMORANDUM WALES BILL  
UK GOVERNMENT AMENDMENTS TABLED FOR LORDS COMMITTEE  
STAGE**

| <b>Clause /<br/>Schedule<br/>No.</b> | <b>Amendment<br/>No.</b> | <b>Subject of Amendment</b>  |
|--------------------------------------|--------------------------|--|
| Sch 3                                | 11,12, 15,16,<br>18 &19  | Amends Schedule 3, the list of Wales Public Authorities about which the Assembly can legislate without the consent of the Secretary of State.  |
| Sch 1,<br>R70-74                     | 53A                      | Adds an exception to the reservations in Section C6: Consumer protection, for agricultural and horticultural produce etc. – for consistency with Section C7.   |
| Sch 1,<br>R75-78                     | 53C                      | Clarifies the exception to the reservations in Section C7:Product standards, safety and liability, to except ‘animals and animal products’ rather than ‘fish and fish products’.   |
| Sch 1,<br>R89                        | 53D                      | Narrows the reservation by deleting the reference to the Export and Investment Guarantees Act 1991 and replacing it with reference to the Export Credits Guarantee Department as a reserved matter.  |
| Sch 1,<br>R128-9                     | 65A                      | This removes “liabilities for local taxes” from the interpretation of the reservation.   |
| Sch 1, R173                          | 67B                      | Amends the exception to the reservation to include libraries.  |
| Sch 1, R176                          | 67D                      | This rewords the current reservation to clarify that reservation 176 relates specifically to proceedings and orders about the care or supervision of children (whether under Part 4 or 5 of the Children Act 1989 or otherwise).   |
| Sch 1<br>R194                        | 74                       | Removes the reservation of teachers’ pay and conditions<br>(UK Government supported amendment)   |
| Sch 2,<br>Para 5                     | 78A                      | Removes the restriction on modifying section 146A(1) GoWA 1998. That section allows the Welsh Ministers, with the consent of the Auditor General for Wales, by order to transfer any of their supervisory functions in respect of a public body or a registered social landlord in Wales to the Auditor General, or to provide that such a function is to be exercised on their behalf by the Auditor General. |
| Sch 2,<br>Para 5                     | 78B                      | Restricts the Assembly from modifying certain provisions of the GoWA 1998 and Public Audit (Wales) Act 2013 relating to the Auditor  |

| Clause /<br>Schedule<br>No. | Amendment<br>No. | Subject of Amendment  |
|-----------------------------|------------------|---|
|                             |                  | General for Wales and the audit of public bodies, otherwise than by way of an “oversight provision”, i.e. a provision which relates or is ancillary to the oversight or supervision of the Auditor General. In the case of a modification to section 8(1) of the Public Audit (Wales) Act 2013, so far as that section relates to the Auditor General’s independence of the Assembly and Welsh Government, there is an additional control: the oversight provision must confer functions on an Assembly Committee which does not include members of the Welsh Government, and is not chaired by an Assembly Member who is a member of a political group with an executive role. |
| Sch 2,<br>Para 7            | 78D              | Removes the requirement for the Secretary of State to consent to a modification of Part 5 (finance) or section 159 (index of definitions) GoWA 2006 where that modification is incidental to, or consequential on, a provision relating to budgetary procedures or devolved taxes.  |
| Sch 2,<br>Paras 9 &<br>10   | 79, 80           | The amendments permit the Assembly to confer, impose, remove or modify the listed authorities’ functions without UK Ministerial consent.  |
| Sch 2,<br>Para 11           | 80A              | The amendment prevents the Assembly from removing or modifying HM Treasury’s functions of:<br>(a) designating the Assembly Commission’s principal accounting officer in the event that the Clerk is unable to fulfil that role, and<br>(b) directing the form and content of accounts prepared by the Welsh Ministers under section 141 GoWA 2006 without UK Ministerial consent.   |
| New clause<br>After Cl 48   | 107C             | Defines ‘a Welsh tribunal’ and provides for Her Majesty, by Order in Council, to amend the list of Welsh Tribunals.   |
| New clause<br>After Cl 48   | 107DA            | Creates the post of President of Welsh Tribunals.   |
| New clause<br>After Cl 48   | 107EA            | Gives the President of the Welsh Tribunals the power to give direction about the practice and procedure of Welsh tribunals.   |
| New clause<br>After Cl 48   | 107FA            | Allows tribunal members to act as a member of other tribunals if appropriate.   |
| New clause                  | 107GA            | Allows judges and tribunal members to serve   |

| <b>Clause / Schedule No.</b> | <b>Amendment No.</b> | <b>Subject of Amendment</b>   |
|------------------------------|----------------------|---|
| After Cl 48                  |                      | on other tribunals.   |
| New clause After Cl 48       | 107H                 | Allows the Lord Chancellor to amend the provisions for cross-deployment of tribunal members and judges if needed.   |
| Before Sch 5                 | 119AA                | This new Schedule outlines the appointment process, selection criteria and terms of office for the President of Welsh Tribunals.  |
| Sch 5, part 3                | 119HA                | Amends the Judicial Pensions and Retirement Act 1993 (c. 8), so that the retirement and pensions regime set out in that Act applies to the President of Welsh Tribunals.  |
| Sch 5, Part 3                | 119HB                | Amends Local Government Act 2000 as a consequence of creating the President of Welsh Tribunals and associated provision.  |
| Sch 5, part 3                | 119JA                | This inserts the Constitutional Reform Act 2005 (c.4) into Part 3 of Schedule 5. It allows the Lord Chancellor to suspend the President of Welsh Tribunals from office for any period during which the President is subject to proceedings for an Address (a procedure by which Parliament can petition Her Majesty to remove a judge from office). |
| Sch 5, part 3                | 119M                 | This applies the duty in section 47 of the Tribunals, Courts and Enforcement Act 2007 (c.15) to co-operate in relation to judicial training, guidance and welfare to the President of Welsh Tribunals.  |
| Sch 5, Part 3                | 119N                 | Removes the President of the Welsh Language Tribunal's power to give practice directions from the Welsh Language (Wales) Measure 2011 as a consequence of the new power to give practice directions inserted in the Wales Bill by Amendment 107EA.  |
| Sch 5, Part 3                | 119P                 | Removes the President of the Special Educational Needs for Wales Tribunal's power to give practice directions from the Special Educational Needs Tribunal for Wales Regulations 2012 (SI 2012/322 (W.53) as a consequence of the new power to give practice directions inserted in the Wales Bill by Amendment 107EA.                               |

Amendment numbers can be found in the following links:

- Marshallled List HL Bill-63I: Amendment numbers 1-22.  
Hyperlink [Publication: HL Bill 63-I Marshallled list of amendments for Committee](#)
- Marshallled List HL Bill-63III: Amendment numbers 52-122.  
Hyperlink [Publication: HL Bill 63-III Third marshallled list of amendments for Committee](#)